

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether  
("MTBE") Products Liability Litigation

Master File No. 1:00-1898 (VSB)

MDL 1358

**This document relates to:**

*Commonwealth of Pennsylvania v. Exxon  
Mobil Corporation, et al.,*

Case No. 14-cv-06228

**DECLARATION OF BRYAN BARNHART IN SUPPORT OF PLAINTIFF  
COMMONWEALTH OF PENNSYLVANIA'S  
MOTION TO REMAND**

I, Bryan Barnhart, declare:

1. I am an attorney at Miller & Axline, counsel of record for Plaintiff Commonwealth of Pennsylvania. The following is based on my personal knowledge, and on my review of Miller & Axline's litigation files, and, if called as a witness, I could competently testify thereto.

2. **Exhibit 1** hereto is a true and correct copy of the United States Judicial Panel on Multidistrict Litigation's Order Denying Transfer of *Short, et al. v. Amerada Hess Corporation, et al.*, C.A. No. 1:16-00204.

3. **Exhibit 2** hereto is a true and correct copy of the United States Judicial Panel on Multidistrict Litigation's Order Denying Transfer of *State of Rhode Island v. Alon Refining Krotz Springs, et al.*, C.A. No. 1:16-00495.

4. **Exhibit 3** hereto is a true and correct copy of the original complaint in this action.

5. **Exhibit 4** hereto is a true and correct copy of the Second Amended Complaint in this action.

6. **Exhibit 5** hereto is a true and correct copy of the United States Judicial Panel on Multidistrict Litigation's Conditional Transfer Order (CTO-44), which transferred this Pennsylvania MTBE action into the MDL.

7. Under my supervision, Miller & Axline's office staff counted the MDL Court's MTBE opinions that were on the Court's docket when this action was transferred into this MTBE MDL. At that time, more than twenty MTBE cases remained in the MDL.

8. **Exhibit 6** hereto is a true and correct copy of LUKOIL Americas Corporation's January 8, 2016, notice of motion and motion to dismiss certain portions of the Second Amended Complaint in this action.

9. **Exhibit 7** hereto is a true and correct copy of Certain Defendants' Notice of Motion to Dismiss, dated January 8, 2016.

10. Under my supervision, Miller & Axline's office staff counted the number of cases currently on the Court's docket in this MDL. Five MTBE cases currently remain pending in this MDL. Four of those cases have reached advanced stages. Three have been partially remanded for "focus sites" trials.

11. No defendant has filed an answer to the operative complaint (i.e., the Second Amended Complaint) in this action. This Court has not addressed the merits of Pennsylvania's pending claims. The Court's Case Management Orders relate only to preliminary, non-site-specific discovery – there is no fact-discovery cut-off date, and there is no trial date.

12. This action has not generated any decision that is transferrable to any other case in this MTBE MDL.

13. Under my supervision, Miller & Axline's office staff counted the MDL Court's MTBE opinions on the Court's docket. They counted 144 opinions.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23rd day of July, 2018, at Sacramento, California.

  
Bryan Barnhart

**PROOF OF SERVICE VIA FILE & SERVEXPRESS**

*Commonwealth of Pennsylvania v. Exxon Mobil Corporation, et al.*,  
United States District Court, Southern District of New York Case No. 14-cv-06228 (SAS)

I, the undersigned, declare that I am, and was at the time of service of the paper(s) herein referred to, over the age of 18 years and not a party to this action. My business address is 1050 Fulton Avenue, Suite 100, Sacramento, CA 95825-4225.

On the date below, I served the following document on all counsel in this action electronically through File & ServeXpress:

**DECLARATION OF BRYAN BARNHART IN SUPPORT OF PLAINTIFF  
COMMONWEALTH OF PENNSYLVANIA'S MOTION TO REMAND**

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on July 23, 2018, at Sacramento, California.

  
KATHY HERRON